IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

Crl.MC.No. 2464 of 2007()

CC.538/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KODUNGALLUR

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PETITIONER: ACCUSED/DEFACTO COMPLAINANT

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1. ABDUL SAMAD, AGED 31 YEARS,
   S/O HASBULLAH, THEPARAMBIL HOUSE,
   KAIPPAMANGALAM P.O., KODUNGALLUR,
   THRISSUR DISTRICT.

2. RABIYA. P.M., AGED 62 YEARS,
   W/O HASBULLAH, THEPARAMBIL HOUSE,
   KAIPPAMANGALAM P.O., KODUNGALLUR,
   THRISSUR DISTRICT.

3. RAMLA AKBAR P.M., AGED 33 YEARS,
   W/O ALI AKBAR, KADAKATHAKATH HOUSE,
   ERIYAD P.O., KODUNGALLUR, THRISSUR DISTRICT.

4. NALEENA, AGED 27 YEARS,
   D/O KHALID, PANIKAVEETIL PAYAKKAL,
   KANDANKULAM P.O., METHALA, THRISSUR DISTRICT.

BY ADV. SRI.NOUSHAD THOTTATHIL

RESPONDENTS:

SUN INSPECTOR OF POLICE,
MATHILAKAM POLICE STATION, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2464 of 2007

Dated this the 2nd day of August 2007

O R D E R

The petitioners are accused (petitioners 1 to 3) and the de facto complainant (petitioner 4) in a prosecution under Section 498A I.P.C. A private complaint was filed. The same was referred to the police under Section 156(3) Cr.P.C. Investigation is complete. Final report has been filed. Cognizance has been taken. The matter is pending before the learned Magistrate. The disputes between the parties have been settled by the rival contestants. They have now come before this court together with the prayer that the prosecution pending against the petitioners 1 to 3 may be quashed invoking the powers under Section 482 Cr.P.C.

2. Joint petition has been filed. The same counsel appears for all the petitioners. The learned counsel asserts that the matter has been settled and vouches for such settlement.

3. I am satisfied, from the totality of the circumstances that the disputes have been settled and the fourth petitioner has compounded the offences allegedly committed by the petitioners 1 to 3. Divorce has been effected. Parties are residing separately. It is submitted that they are likely to get married again shortly.

4. If legally permissible, I am satisfied that composition can be accepted and premature termination of the proceedings can be directed. However, the offence under Section 498A I.P.C is not

compoundable. The counsel relies on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. The said decision is authority for the proposition that the interests of justice may, at times, transcend the interests of mere law and in such circumstances, the stipulations of Section 320 Cr.P.C cannot fetter the sweep of the powers under Section 482 Cr.P.C.

5. I am satisfied that this is an eminently fit case where powers under Section 482 Cr.P.C can and ought to be invoked with the aid of the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] and proceedings brought to premature termination.

6. In the result, this petition is allowed. C.C.No.538/2006 pending before the Judicial First Class Magistrate Court, Kodungallur against petitioners 1 to 3 inter alia under Section 498A I.P.C is hereby quashed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007